

Filed in Adams District Court
*** EFILED ***
Case Number: D14C1180000072
Transaction ID: 0006436550
Filing Date: 02/14/2018 04:00:15 PM CST

IN THE DISTRICT COURT OF ADAMS COUNTY, NEBRASKA

FRANCISCO DIAZ,

Plaintiff,

vs.

JARED M. KELM both individually and
as an agent of UNION TANK CAR
COMPANY; and UNION TANK CAR
COMPANY, a company authorized to do
business in the State of Nebraska;

Defendants.

Case No. CI18-_____

COMPLAINT

COMBS NOW the Plaintiff, Francisco Diaz (hereinafter "Plaintiff"), by and through his Attorney, Shon T. Lieske, and for his cause of action against the Defendants Jared M. Klem and Union Tank Car Company, hereby alleges and states as follows:

1. The Plaintiff is now and was on or about June 6, 2014, a resident of Hastings, Adams County, Nebraska.
2. Defendant Jared M. Kelm, on or about June 6, 2014, was a resident of Cleveland, Texas and was operating a motor vehicle on the streets of Hastings, Adams County, Nebraska.
3. Defendant Union Tank Car Company, on or about June, 6, 2014, was a business based in Chicago, Illinois, and authorized to do business in the State of Nebraska by the Nebraska Secretary of State.
4. That on June 6, 2014, Defendant Union Tank Car Company owned the vehicle being driven the Defendant Jared M. Kelm and provided said vehicle to Mr. Kelm for his use and operation.

A

5. That on June 6, 2014, at the time of the collision with the Plaintiff, Defendant Jared M. Kelm was an employee of Defendant Union Tank Car Company.

6. That on June 6, 2014, at the time of the collision with the Plaintiff, Defendant Jared M. Kelm was operating the motor vehicle owned by Defendant Union Tank Car Company within the State of Nebraska and within the scope of his employment with Defendant Union Tank Car Company.

7. On June 6, 2014, 7th Street and Burlington Avenue were public roads located within Hastings, Adams County, Nebraska, and the intersection of these two roads was controlled by a traffic light.

8. On or about June 6, 2014, Defendant Jared M. Kelm operated the motor vehicle owned by Defendant Union Tank Car Company in a negligent manner at the intersection of 7th Street and Burlington Avenue in Hastings, Adams County, Nebraska, causing the vehicle to collide with the Plaintiff's vehicle, injuring the Plaintiff.

9. That, at the time of the collision, Defendant Jared M. Kelm was impaired according to the laws of the State of Nebraska, specifically *Neb. Rev. Stat. § 60-6,196*, by operating a motor vehicle with a blood alcohol concentration of over .08 of one gram by weight of alcohol per two hundred ten liters of his breath.

10. That on June 19, 2014, the Defendant Jared M. Kelm pled guilty to operating the motor vehicle owned by Defendant Union Tank Car Company with a blood alcohol concentration of over .08 of one gram by weight of alcohol per two hundred ten liters of his breath at the time of the collision with the Plaintiff's vehicle. The Plaintiff's plea of guilty resulted in Jared M. Kelm being convicted of a violation of *Neb. Rev. Stat. § 60-6,196*.

11. As a direct and proximate result of the negligence of Defendant Jared M. Kelm, both personally and as an employee and agent of Defendant Union Tank Car Company, the Plaintiff was injured, requiring the Plaintiff to incur medical expenses for care and treatment of his injuries in the amount of not less than \$123,633.00 at the time of this Complaint and requiring the Plaintiff to expend sums of money for future medical treatment for his injuries.

12. As a direct and proximate result of the negligence of the Defendants, the Plaintiff has suffered temporary and permanent injury and disability. The Plaintiff is likely to spend no less than \$1,973,613.90 on future medical treatment, rehabilitation, evaluations, home care and medications as a result of his injuries and the temporary and permanent disability that the Plaintiff suffered as a result of the negligence of the Defendants.

13. As a direct and proximate result of the negligence of the Defendants, the Plaintiff has suffered a loss of earning capacity. Based on the Plaintiff's earning capacity at the time of the accident and his future projected earning capacity if he was uninjured, the Plaintiff will be lose no less than \$1,216,800.00 in earnings.

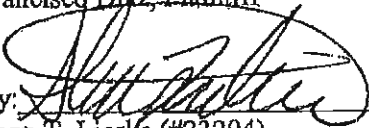
14. As a direct and proximate result of the negligence of the Defendants, the Plaintiff has been caused to endure great pain and suffering and mental anguish and will continue to endure pain and suffering in the future.

15. As a direct and proximate result of the negligence of the Defendants, the Plaintiff has suffered injury to his property.

WHEREFORE, the Plaintiff prays for judgment against the Defendant for special damages in the amount of not less than \$3,314,046.90, general damages, future medical damages, future lost wages, the cost of this action, and for any and all other relief the court shall deem appropriate.

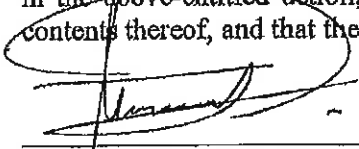
Dated this 13th day of February, 2018.

Francisco Diaz, Plaintiff

By: 
Shon T. Lieske (#23204)
Attorney for Plaintiff
LIESKE, LIESKE, & ENSZ, P.C., L.L.O.
333 North Colorado Avenue
P.O. Box 268
Minden, NE 68959-0268
(308)832-2103
shon.lieske@lieskelawfirm.com

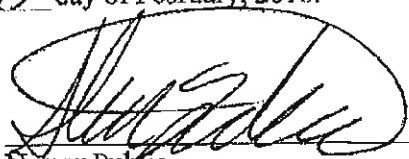
STATE OF NEBRASKA)
) ss.
COUNTY OF KEARNEY)

Francisco Diaz, being first duly sworn upon oath, deposes and states that he is the Plaintiff in the above-entitled action; that he has read the above and foregoing Complaint, knows the contents thereof, and that the statements therein are true.


Francisco Diaz, Plaintiff

Subscribed and sworn to before me this 13th day of February, 2018.




Notary Public

PRAECIPE

TO: THE CLERK OF THE DISTRICT COURT OF ADAMS COUNTY NEBRASKA

Please issue summons along with one copy of the foregoing Complaint to be served by certified mail upon the following Defendant:

Union Tank Car Company
c/o United States Corporation Co.
801 Adlai Stevenson Drive
Springfield, IL 62703

Please issue summons along with one copy of the foregoing Complaint to be served by the Sheriff of Liberty County, Texas, upon the following Defendant:

Jared M. Kelm
956 County Road 2197
Cleveland, TX 77327

/s/ Shon T. Lieske

Shon T. Lieske (#23204), Attorney for Plaintiff

Image ID:
D00050926D14

SUMMONS

Doc. No. 50926

IN THE DISTRICT COURT OF Adams COUNTY, NEBRASKA
500 West 4th, Room 200
Hastings NE 68901 0009

Francisco Diaz v. Jared M. Kelm

Case ID: CI 18 72

TO: Union Tank Car Company

FILED BY
Clerk of the Adams District Court
02/14/2018

You have been sued by the following plaintiff(s):

Francisco Diaz

Plaintiff's Attorney: Shon T Lieske
Address: 333 North Colorado Ave
P.O. Box 268
Minden, NE 68959-0268
Telephone: (308) 832-2103

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: FEBRUARY 14, 2018

BY THE COURT:

Christine D. Sedik
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Union Tank Car Company
c/o United States Corporation Co.
801 Adlai Stevenson Drive
Springfield, IL 62703

Method of service: Certified Mail

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.

SERVICE RETURN

Doc. No. 50926

Adams District Court
500 West 4th, Room 200
Hastings NE 68901 0009

To:

Case ID: CI 18 72 Francisco Diaz v. Jared M Kelm

Received this Summons on _____, I hereby certify that on
_____, at _____ o'clock __M. I served copies of the Summons
upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage _____ miles _____

TOTAL \$ _____

Date: _____ BY: _____
(Sheriff or authorized person)

**CERTIFIED MAIL
PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,
TO THE PARTY: _____

At the following address: _____

on the _____ day of _____, as required by Nebraska state law.

Postage \$ _____ Attorney for: _____

The return receipt for mailing to the party was signed on _____.

To: Union Tank Car Company
c/o United States Corporation Co.
801 Adlai Stevenson Drive
Springfield, IL 62703

From: Shon T Lieske
333 North Colorado Ave
P.O. Box 268
Minden, NE 68959-0268

ATTACH RETURN RECEIPT & RETURN TO COURT

Filed in Adams District Court

*** EFILED ***

Case Number: D14CI180000072

Transaction ID: 0006486000

Filing Date: 02/26/2018 11:45:05 AM CST

SERVICE RETURN

Adams District Court
 500 West 4th, Room 200
 Hastings NE 68901 0009

To
 Case ID CI 18 72 Francisco Diaz v Jared M Kelm

Received this Summons on _____, I hereby certify that on
 _____ at _____ o'clock ____ M. I served copies of the Summons
 upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage _____ miles

TOTAL \$ _____

Date: _____ BY: _____
 (Sheriff or authorized person)

**CERTIFIED MAIL
 PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,
 TO THE PARTY: Union Tank Car Company c/o United States Corporation co.

At the following address: 801 Adlai Stevenson Drive
Springfield, MO 62703

on the 16th day of February, 2018, as required by Nebraska state law.

Shon T. Lieske

Postage \$ 6.91 Attorney for: Francisco Diaz

The return receipt for mailing to the party was signed on February 20, 2018.

To Union Tank Car Company
 c/o United States Corporation Co
 801 Adlai Stevenson Drive
 Springfield, IL 62703

From Shon T Lieske
 333 North Colorado Ave
 P O Box 268
 Minden, NE 68959-0268

ATTACH RETURN RECEIPT & RETURN TO COURT

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p>Union Tank Car Company c/o United States Corporation Co 801 Adlai Stevenson Drive Springfield IL 62703</p> <p>2. Article Number (Transfer from service label)</p> <p>7015 3430 0000 6262 1266</p>	<p>A. Signature</p> <p>X <i>Tanner Means</i></p> <p>B. Received by (Printed Name) <i>Tanner Means</i> FEB 20 2018</p> <p>C. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input checked="" type="checkbox"/> Signature Confirmation® <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Signature Confirmation Restricted Delivery (over \$500) <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

9921 2929 0000 0646 5107

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

SPRINGFIELD IL 62703

OFFICIAL USE

Certified Mail Fee	\$3.45
Extra Services & Fees (check box, add fee as appropriate)	\$2.75
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.71
Total Postage and Fees	\$6.91

Postmark Here
FEB 16 2018
02/16/2018

Sent To
Union Tank Car Co. c/o US Corporations Co
Street and Apt. No., or PO Box No.
801 Adlai Stevenson Drive
City, State, ZIP+4®
Springfield IL 62703

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Certificate of Service

I hereby certify that on Monday, February 26, 2018 I provided a true and correct copy of the Return-Summons/Alias Summons to the following:

Union Tank Car Company service method: No Service

Kelm,Jared,M represented by Pro Se Party (Bar Number: 2) service method: No Service

Signature: /s/ Shon T. Lieske (Bar Number: 23204)

Image ID:
D00050925D14

SUMMONS

Doc. No. 50925

IN THE DISTRICT COURT OF Adams COUNTY, NEBRASKA
500 West 4th, Room 200
Hastings NE 68901 0009

Francisco Diaz v. Jared M. Kelm

Case ID: CI 18 72

TO: Jared M Kelm

FILED BY
Clerk of the Adams District Court
02/14/2018

You have been sued by the following plaintiff(s):

Francisco Diaz

Plaintiff's Attorney: Shon T Lieske
Address: 333 North Colorado Ave
P.O. Box 268
Minden, NE 68959-0268
Telephone: (308) 832-2103

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: FEBRUARY 14, 2018

BY THE COURT:

Christine D. Sedik
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Jared M Kelm
956 County Road 2197
Cleveland, TX 77327

BY: Foreign Officer
Method of service: Personal Service

You are directed to make such service within twenty days after date of issue, and show proof of service as provided by law.

SERVICE RETURN

Doc. No. 50925

Adams District Court
500 West 4th, Room 200
Hastings NE 68901 0009

To: Foreign Officer

Case ID: CI 18 72 Francisco Diaz v. Jared M Kelm

Received this Summons on _____, I hereby certify that on
_____, at _____ o'clock __M. I served copies of the Summons
upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage _____ miles _____

TOTAL \$ _____

Date: _____ BY: _____
(Sheriff or authorized person)

**CERTIFIED MAIL
PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,
TO THE PARTY: _____

At the following address: _____

on the _____ day of _____, as required by Nebraska state law.

Postage \$ _____ Attorney for: _____

The return receipt for mailing to the party was signed on _____.

To: Jared M Kelm
956 County Road 2197
Cleveland, TX 77327

From: Shon T Lieske
333 North Colorado Ave
P.O. Box 268
Minden, NE 68959-0268

ATTACH RETURN RECEIPT & RETURN TO COURT

Filed in Adams District Court

*** EFILED ***

Case Number: D14CI180000072

Transaction ID: 0006520636

Filing Date: 03/05/2018 9:00 AM CST

SERVICE RETURN

Adams District Court
 500 West 4th, Room 200
 Hastings NE 68901 0009

To Foreign Officer

Case ID CI 18 72 Francisco Diaz v Jared M Kelm

Received this Summons on _____, I hereby certify that on

 _____ at _____ o'clock _____ M. I served copies of the Summons
 upon the party: See Attached

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage _____ miles

TOTAL \$ _____

 Date: _____ BY: _____
 (Sheriff or authorized person)

CERTIFIED MAIL PROOF OF SERVICE

Copies of the Summons were mailed by certified mail,

TO THE PARTY: _____

At the following address: _____

on the _____ day of _____, as required by Nebraska state law.

Postage \$ _____ Attorney for: _____

The return receipt for mailing to the party was signed on _____.

To Jared M Kelm
 956 County Road 2197
 Cleveland, TX 77327

From Shon T Lieske
 333 North Colorado Ave
 P O Box 268
 Minden, NE 68959-0268

ATTACH RETURN RECEIPT & RETURN TO COURT

Liberty County Sheriff's Department
Bobby Rader, Sheriff
CIVIL DIVISION
2400 Beaumont Ave.-Liberty, TX 77575
Phone 936-258-2036

**SUMMONS
OFFICER'S RETURN**

Cause # CI 18 72

Francisco Diaz vs. Jared M. Kelm

**In The District Court
Of Adams County, NE**

CAME TO HAND on the 21st day of February, 2018 at 3:20 p.m., and executed in Liberty County, Texas by delivering to each of the within Respondents, a true copy of this **Summons with Complaint Petition** at the following times, places and manner, to wit:

RESPONDENT	DATE	TIME	WHERE SERVED
Jared M. Kelm	02/22/2018	3:55 p.m.	575 CR 2197 Cleveland, Texas 77327

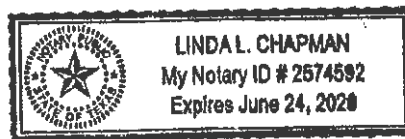
Returned this 26 day of February, 2018.

**SHERIFF BOBBY RADER
LIBERTY COUNTY, TEXAS**

By Deputy Ruben Arellano
Ruben Arellano, #64

State of Texas
County of Liberty

Sworn to and subscribed before me on the 26 day of
February, 2018, by Deputy Ruben Arellano, Deputy Sheriff of
Liberty County, TX.



Linda L. Chapman
Notary Public in and for
The State Of Texas

Fees \$75.00
(Paid)

Certificate of Service

I hereby certify that on Monday, March 05, 2018 I provided a true and correct copy of the Return-Summons/Alias Summons to the following:

Union Tank Car Company service method: No Service

Kelm,Jared,M represented by Pro Se Party (Bar Number: 2) service method: No Service

Signature: /s/ Shon T. Lieske (Bar Number: 23204)